



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733**

July 30, 2013

Matthew T. Messenger
Project Manager
Veterinary Services
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
4700 River Road, Unit 43
Riverdale, MD 20737

RE: Detailed Comment Letter for Draft Environmental Impact Statement (DEIS)
Cattle Fever Tick Eradication Program – Tick Control Barrier
Maverick, Starr, Webb, and Zapata Counties in Texas

Dear Mr. Messenger:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the DEIS prepared by the U.S. Department of Agriculture (USDA).

The DEIS evaluates the impacts of USDA's proposal to install game fencing in rural areas of cattle production where recurrent cattle fever tick outbreaks continue to occur in locations in south Texas in order to help prevent re-infestation of areas where the pest has been or is being eliminated. The DEIS describes and analyzes the potential impacts from two alternative actions relating to cattle fever tick resistance and distribution, land resources and characteristics, climate, air quality, water quality, vegetation, wildlife, human health and safety, and cultural, historic, and visual resources.

EPA rates the DEIS as "EC-2", i.e., EPA has "environmental concerns and requests additional information" in the Final Environmental Impact Statement (FEIS). EPA's Rating System Criteria can be found here: <http://www.epa.gov/oecaerth/nepa/comments/ratings.html>.

The "EC" rating is based on the potential for adverse impacts. The "2" indicates the DEIS does not contain sufficient information to fully assess the impact of the action and additional information is requested. Detailed comments are enclosed with this letter which clearly identifies our concerns and the informational needs requested for incorporation in to the FEIS. Responses to comments should be placed in a dedicated section of the FEIS and should include the specific location where the revision, if any, was made. If no revision was made, a clear explanation should be included.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS, and an internet link, when it is sent to the Office of Federal Activities, EPA (Mail Code 22252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. If you have any questions or concerns, please contact Kimeka Price of my staff at (214)665-7438 or via email at price.kimeka@epa.gov for assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra A. Griffin". The signature is fluid and cursive, with the first name "Debra" being more prominent.

Debra A. Griffin
Associate Director
Compliance Assurance and
Enforcement Division

Enclosure

**DETAILED COMMENTS
ON THE
U.S. DEPARTMENT OF AGRICULTURE
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR CATTLE FEVER TICK ERADICATION PROGRAM
TICK CONTROL BARRIER IN
MAVERICK, STARR, WEBB, AND ZAPATA IN SOUTH TEXAS**

BACKGROUND

The DEIS analyzes the environmental effects associated with installation of approximately 70 miles of non-contiguous game fencing under agreements with landowners in several counties. Recurrent cattle fever tick outbreaks are increasing in locations either within the Permanent Tick Quarantine Zone or outside of the zone in the cattle fever tick-free area of South Texas. The proposed fence would help prevent re-infestation of areas where the pest has been or is being eliminated. Based on evidence of when free-ranging animals enter pastures, the effectiveness of other ongoing tick eradication measures (such as vacating pastures and systematic tick treatments for cattle) becomes compromised.

Cattle fever ticks are agricultural pests of concern for U.S. livestock because they can cause devastating economic loss. Ticks also spread protozoan parasites that cause disease. All U.S. herds are considered “naïve hosts” because they have not been exposed or vaccinated to ticks and the disease they carry. Consequently, U.S. cattle are more susceptible to extreme illness if infected. Game fences ultimately contribute another tool toward cattle fever tick eradication and prevention efforts.

COMMENTS

The following comments are offered for USDA’S consideration in preparation of the FEIS:

General Air Quality

Page 89: The Environmental Consequences Section of the DEIS addressing Climate and Air Quality states that direct project impacts to ambient air quality will be temporary, primarily due to construction equipment emissions and airborne particulate matter and fugitive dust associated with the installation of seventy (70) miles of tick control barrier fencing. Additionally, on page xiv of the DEIS, the Summary of Alternatives Section states that the majority of the proposed fence locations would border U.S. Highway 83. Minimizing fugitive dust and construction-related impacts from the installation of fence segments near sensitive populations and highways is an essential health and safety goal. Therefore, the DEIS should describe and estimate air emissions from potential construction and maintenance activities, as well as proposed mitigation measures to minimize those emissions, in a construction emissions mitigation plan or similar document (e.g., agreements with landowners) in order to reduce air

quality impacts associated with emissions of oxides of nitrogen (NO_x), carbon monoxide (CO), carbon dioxide (CO₂), particulate matter (PM), sulfur dioxide (SO₂), and other pollutants from fence installation and construction-related activities.

Recommendation:

The FEIS should include a construction emissions mitigation plan. In addition to all applicable local, state, or federal requirements, the FEIS should include control measures (Fugitive Dust, Mobile and Stationary Source and Administrative) in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of particulate matter and other toxics from construction-related activities:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays, and windy conditions;
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and
- Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Plan construction scheduling to minimize vehicle trips;
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;
- If practicable, utilize new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible;
- Lacking availability of non-road construction equipment that meets Tier 4 engine standards, the responsible agency should commit to using EPA-verified particulate traps, oxidation catalysts and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and
- Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).

Administrative controls (as practicable):

- Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and
- Identify sensitive receptors in the project area, such as children, elderly, and infirmed, and specify the means by which impacts to these populations will be

minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).

Mitigation Measures

Page 119: The DEIS identifies potential mitigation that could be applied to avoid or minimize potential impacts from the implementation of the proposed project but does not address how the USDA will be bound to these measures.

Recommendation:

The FEIS should incorporate a commitment by the USDA to implement mitigation measures selected to reduce or avoid any adverse impacts from proposed project.

Wetlands

The DEIS discusses the proposed project's alternatives to minimize destruction, loss, or degradation of wetlands as directed by Executive Order 11990, *Protection of Wetlands*. The DEIS should have identified the two wetlands involved in the proposed project.

Recommendation:

The FEIS should include the identification of the two wetlands involved in this project if they are isolated wetlands, the watershed the wetlands are located in, and connected traditional navigable water.

Hazardous/Toxic Material and Hazardous/Solid Waste

The DEIS discusses the construction and maintenance activities of the proposed project's alternatives. The DEIS does not identify any impacts associated with hazardous material and/or hazardous or solid waste potentially produced by these activities.

Recommendation:

The FEIS should address the potential direct, indirect, and cumulative impacts of solid and hazardous waste from the construction, operation, and maintenance of new facilities and existing infrastructure and facility improvements. The document should identify projected solid and hazardous waste types and volumes, and expected storage, disposal, and management plans. The FEIS should address the applicability of state and federal requirements. Appropriate mitigation should be evaluated, including measures to minimize the generation of hazardous waste (i.e., hazardous waste minimization).

Environmental Justice and Impacted Communities

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994), and the Interagency Memorandum of Understanding on Environmental Justice (August 4, 2011) direct federal agencies to identify and address disproportionately high and adverse human or environmental effects on minority and low-income populations, allowing those populations a meaningful opportunity to participate in the decision-making process. Guidance¹ by CEQ clarifies the terms low-income, minority population, and describes the factors to consider when evaluating disproportionately high and adverse human health effects. The DEIS generally discusses the proposed project impacts on minority and low-income populations, but it does not identify each minority group individually. For example, the socioeconomics section and Appendix J of the DEIS identifies Hispanic and non-Hispanic ethnic populations, but does not identify any additional minority populations.

Recommendation:

The FEIS should include documentation that explicitly identifies all minority and low-income populations.

Government-to-Government Consultation with Indian Tribes

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249; November 6, 2000), requires regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States government-to-government relationships with Indian tribes. Under the Tribal Consultation, DEIS provides information that USDA initiated consultation with the Tonkawa Tribe of Oklahoma, but there was no discussion as to why no other Tribes were consulted.

Recommendation:

The FEIS should identify all potentially affected tribes, resources and tribal communities, and include correspondence to Tribal government(s) and other consultation related documents to demonstrate fulfillment of Executive Order 13175. USDA should continue consultations concerning the potential effects of the proposed project with Tribal government(s) during all appropriate phases of the NEPA and planning processes.

¹ Environmental Justice Guidance under the National Environmental Policy Act, Appendix A (Guidance for Federal Agencies on Key Terms in Executive Order 12898), CEQ, December 10, 1997.

Invasive Species

Executive Order 13112, *Invasive Species* (February 3, 1999), mandates that federal agencies take actions to prevent the introduction of invasive species, provide for their control, and minimize the economic, ecological, and human health impacts that invasive species cause. Executive Order 13112 also calls for the restoration of native plants and tree species.

Recommendation:

The FEIS should clarify the invasive plant management plan to be used for monitoring and controlling noxious weeds. If herbicides or pesticides will be used to manage vegetation, the FEIS should disclose the projected quantities and types of chemicals. The invasive plant management plan should specify the methods that can be used to limit the introduction and spread of invasive species during and post-construction. The FEIS should specify alternative management practices that limit herbicides use and focus on other methods to limit invasive species vegetation and decrease fire risk. Additionally, the FEIS should specify how the project will meet the requirements of Executive Order 13112 for any new landscaping.

Threatened and Endangered Species

The DEIS identifies that U.S. Fish and Wildlife Service (USFWS) was contacted for threatened and endangered species consultation under Section 7 of the Endangered Species Act, but there is not concurrence from the USFWS on any conclusion reached by USDA in the DEIS on the environmental consequences of the proposed project's alternatives. Also, USDA should coordinate with Texas Parks and Wildlife Department to ensure current and consistent surveying, monitoring, and reporting protocols are applied in protection and mitigation efforts to sensitive biological resources.

Recommendation:

The FEIS should incorporate concurrence from the USFWS on the USDA determination for impacts of the proposed project to threatened and endangered species. Also, USDA should coordinate with Texas Parks and Wildlife Department to ensure current and consistent surveying, monitoring, and reporting protocols are applied in protection and mitigation efforts to sensitive biological resources.

National Historic Preservation Act Section 106 Consultation

Page 119: The DEIS provides information that Texas State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officer (THPO), and each County Historical Commission Chairs were contacted by USDA for coordination purposes under National Historic Preservation Act (NHPA) Section 106 Consultation.

Recommendation:

The FEIS should incorporate any issues raised by and concurrence from Texas SHPO, Advisory Council on Historic Preservation, and THPO on the conclusions reached in DEIS concerning historic, cultural, or archeological resources. Additionally, USDA should continue consultations with Texas SHPO, Advisory Council on Historic Preservation, and THPO during all appropriate phases of the NEPA and planning processes.